

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY

Law Department
888 Union Station • Chicago, Illinois 60606

MICHAEL D. SULLIVAN
General Attorney and
Corporate Counsel

6-3534057
Date **DEC 23 1976**
Fee \$ *50* (312) 236-7600

ICC Washington, D. C.
December 22, 1976

Mr. Robert L. Oswald, Secretary
Interstate Commerce Commission
Washington, D. C. 20423

RECORDATION NO. 8636 Filed & Recorded

DEC 23 1976 11 41 AM

INTERSTATE COMMERCE COMMISSION

Dear Mr. Oswald:

In pursuance of the provisions of Section 20c of the Interstate Commerce Act, as amended, and the regulations of the Interstate Commerce Commission promulgated thereunder, there are herewith transmitted for filing and recording four (4) executed counterparts of the following document: Lease Agreement, dated as of December 21, 1976, between CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, Lessee, and CONTINENTAL ILLINOIS LEASING CORPORATION, Lessor.

The names and addresses of the parties to the transaction are as follows:

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY,
Lessee
746 Union Station Building
516 West Jackson Boulevard
Chicago, Illinois 60606

CONTINENTAL ILLINOIS LEASING CORPORATION,
Lessor
231 South La Salle Street
Chicago, Illinois 60693

RECEIVED
DEC 23 11 41 AM '76
I.C.C.
FEE OPERATION BR.

A general description of the equipment covered by said Lease Agreement is as follows:

100 new fully enclosed tri-level automobile racks manufactured by Whitehead & Kales Company bearing or to bear said Company's serial numbers 56185 through 56384, inclusive, with two numbers per rack.

Continental Illinois Leasing Corporation

Mr. Robert L. Oswald
December 22, 1976
Page 2

The above-identified document has not heretofore been recorded with the Interstate Commerce Commission. Please accept the enclosures for recordation, stamp the three remaining counterparts with the appropriate recordation number and return them with your fee receipt and letter confirming receipt to my delivering messenger.

The filing and recordation fees in the amount of \$50.00 in respect of this document is submitted herewith.

Yours very truly,

CHICAGO, MILWAUKEE, ST. PAUL
AND PACIFIC RAILROAD COMPANY

By Michael D Sullivan
General Attorney and
Corporate Counsel

MDS/bg
encls.

Interstate Commerce Commission
Washington, D.C. 20423

12/23/76

OFFICE OF THE SECRETARY

Michael D. Sullivan

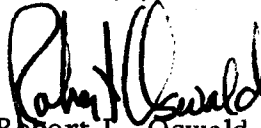
Chicago, Milwaukee, St. Paul & Pac. RR. Co.
888 Union Station
Chicago, Illinois 60606

Dear

Sir:

The enclosed document(s) was recorded pursuant to the
provisions of Section 20(c) of the Interstate Commerce Act,
49 U.S.C. 20(c), on **12/23/76** at **11:45am**,
and assigned recordation number(s) **8630**

Sincerely yours,


Robert L. Oswald
Secretary

Enclosure(s)

SE-30
(5/76)

8630

RECORDATION NO. Filed & Recorded

LEASE AGREEMENT

DEC 23 1976 • 11 45 AM

INTERSTATE COMMERCE COMMISSION

Lease Agreement dated as of December 21, 1976, between CONTINENTAL ILLINOIS LEASING CORPORATION, a Delaware corporation ("Lessor"), and CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, a Wisconsin corporation ("Lessee").

1. LEASE OF EQUIPMENT

Lessor hereby agrees to lease to Lessee, and Lessee hereby agrees to lease from Lessor, upon the terms and conditions hereinafter set forth 100 fully enclosed tri-level automobile racks (the "Racks") manufactured by Whitehead & Kales Company ("Whitehead") (the "Racks" being hereinafter sometimes referred to as the "Equipment" and each such Rack being sometimes referred to as a "unit" or a "unit of Equipment"), covered by Lessee's invitation to bid initially published on October 26, 1976 and described on Exhibit A hereto. Deliveries of Racks shall be in minimum groups of ten units, except for the final delivery. The aggregate cost for the Racks ("Lessor's Cost of Racks") shall not exceed \$3,000,000.

2. ASSIGNMENT

Lessee has assigned and transferred to Lessor under a Purchase Agreement Assignment dated as of December 21, 1976 (the "Assignment") all right, title and interest in and to those certain letters dated July 14, 1976 and July 26, 1976, and all documents supplemental thereto, between Lessee and Whitehead (the "Purchase Agreement") covering the manufacture by Whitehead and the purchase by Lessee of the Equipment.

3. LEASE TERM

The term of lease under this Lease Agreement of each Rack shall commence on the date of delivery of such Rack to Lessee and shall end 84 months after the date (the "Commencement Date") which shall be the earlier of (i) the date as of which all Racks shall have been accepted by Lessee, or (ii) January 31, 1977.

4. RENT, NET LEASE

Lessee shall pay to Lessor rent, quarterly in arrears, for the Racks in 28 installments, each of which shall be in an amount equal to 4.47757% of Lessor's Cost of Racks then subject to this Lease Agreement. The first installment of rent shall be payable on the first quarterly anniversary of the Commencement Date. Subsequent installments of rent shall be payable thereafter on each successive quarterly anniversary of the Commencement Date. In addition, Lessee shall pay Lessor interim rent quarterly for the period commencing with the date of payment by Lessor of any part of Lessor's Cost of Racks and ending on the last day of each calendar quarter and with a final payment thereon to be made on the Commencement Date, which interim rent shall be in an amount equal to 125% of the prime commercial rate ("Prime Rate") of Continental Illinois National Bank and Trust Company of Chicago ("Bank") from time to time in effect multiplied by that part of Lessor's Cost of Racks paid by Lessor prior to the Commencement Date computed from the dates so paid to the date of payment of such interim rent, and computed for the actual number of days elapsed on the basis of a year consisting of 360 days. Changes in the interim rent due to changes in said Bank's Prime Rate shall be effective when and as said Bank changes its Prime Rate. All rent and other amounts due from Lessee to Lessor shall be paid to Lessor at its office at: 231 South LaSalle Street, Chicago, Illinois 60693, or at such other place as Lessor shall specify in writing. In the event any rent or other amounts due hereunder shall not be made promptly when due, Lessee shall pay Lessor, as additional rent hereunder, interest on such overdue amount from the due date thereof to the date of payment thereof at a rate equal to the lesser of (i) 12% per annum or (ii) the maximum rate permitted by law.

This Lease Agreement provides for a net lease and the rent and other amounts due hereunder from Lessee to Lessor shall not be subject to any defense, claim, reduction, set-off or adjustment for any reason whatsoever. Lessee shall promptly pay all costs, expenses and obligations of every kind and nature incurred in connection with the use or operation of the Equipment which may arise or be payable during the lease term of such Equipment hereunder, whether or not such cost, expense or obligation is specifically referred to herein.

5. LESSOR'S ACCEPTANCE OF AND PAYMENTS FOR EQUIPMENT

Each unit of Equipment shall be subject to Lessor's inspection and approval. Such inspection and approval shall be made by an officer of Lessee designated by Lessor as its authorized representative for such purpose from time to time upon delivery of each unit of Equipment. If such unit of Equipment conforms to the specifications required by the Purchase Agreement, such authorized representative shall promptly execute and deliver to Lessor, in such number of counterparts or copies as may be reasonably requested, a Certificate of Acceptance in the form of Exhibit B hereto (a "Certificate of Acceptance"), provided, however, that neither Whitehead nor Lessee shall be thereby relieved of their respective warranties and agreements contained in the Purchase Agreement and the Assignment.

Lessor shall thereafter from time to time on or before the Commencement Date (not more than once in any week) make such payments as Lessee may request under a Certificate of Acceptance for the purchase of the Racks under the Purchase Agreement. Each such Certificate of Acceptance (except the last) shall cover not less than ten Racks.

6. LESSEE'S ACCEPTANCE OF EQUIPMENT

Acceptance of a unit of Equipment by Lessee under a Certificate of Acceptance shall constitute Lessee's acknowledgement that a unit of Equipment is in good order and condition; is of the manufacture, design and capacity selected by Lessee; and is suitable for Lessee's purposes. If Lessee has not accepted all of the Racks by the Commencement Date, then this Lease Agreement shall cover only those units of Equipment which have theretofore been so accepted.

7. DISCLAIMER OF LESSOR'S WARRANTIES

Lessee agrees and acknowledges that all units of Equipment have been or will be ordered by Lessee in accordance with Lessee's specifications and that LESSOR DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY WHATSOEVER OF TITLE, MERCHANTABILITY, FITNESS FOR ANY PURPOSE, OR OTHERWISE REGARDING THE EQUIPMENT OF ANY UNIT THEREOF. Lessor shall, at Lessee's sole expense, take all action reasonably requested by Lessee

to make available to Lessee to the fullest extent possible any rights of Lessor with respect to the Racks under any express or implied warranties it may have against any manufacturer with respect to the Racks.

8. LESSEE'S WARRANTIES

Lessee represents and warrants that:

(a) Lessee is a corporation duly organized and existing in good standing under the laws of the State of Wisconsin.

(b) Lessee is duly authorized to execute and deliver the Purchase Agreement, the Assignment and this Lease Agreement, and is and will continue to be duly authorized to lease Equipment hereunder and to perform its obligations hereunder and thereunder.

(c) The execution and delivery of the Purchase Agreement, the Assignment and this Lease Agreement by Lessee, and the performance by Lessee of its obligations hereunder and thereunder, do not and will not conflict with any provision of law or of the charter or by-laws of Lessee or of any indenture, mortgage, deed of trust or agreement or instrument binding upon Lessee or to which Lessee is a party. Lessee has in the negotiation, execution and delivery of the Purchase Agreement, the Assignment and this Lease Agreement complied in all respects with the competitive bidding regulations prescribed by the Interstate Commerce Commission ("ICC") in 49 CFR Part 1010 pursuant to 15 U.S.C. § 20.

(d) The execution, delivery and performance of the Purchase Agreement, the Assignment and this Lease Agreement by Lessee and the consummation by Lessee of the transactions contemplated hereby and thereby does not require the consent, approval or authorization of, or notice to, any Federal or State governmental authority or public regulatory body, except the filing with the ICC within 30 days after the date of execution and delivery hereof of the statement required by 15 U.S.C. § 20 and 49 CFR § 1010.4. Additionally, (i) this Lease Agreement will be recorded with the ICC in accordance with Section 20c of the Interstate Commerce Act, and

(ii) all Uniform Commercial Code financing statements required for the purpose of proper perfection, to Lessor's satisfaction, of Lessor's interest in the Equipment will be filed with all appropriate county and state filing officers.

(e) Lessee's financial statement as at September 30, 1976, a copy of which has been furnished to Lessor, has been prepared in conformity with the Uniform System of Accounts for Railroad Companies prescribed by the ICC applied on a basis consistent with that of the preceding fiscal year and presents fairly the financial condition of Lessee as at the date thereof, and the results of its operations for the period then ended, and since such date there has been no material adverse change in its financial condition.

(f) The Purchase Agreement, the Assignment and this Lease Agreement are the legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms.

(g) There are no pending or threatened actions or proceedings before any court or administrative agency which may to a material extent adversely affect the financial condition or continued operation of Lessee and its subsidiaries on a consolidated basis (except as previously disclosed in writing by Lessee to Lessor including disclosures in the third quarter report (September 30, 1976) of Chicago Milwaukee Corporation which is the parent of Lessee).

(h) The Racks will constitute new property, the original use of which will commence with Lessor within the meaning of Section 167(c)(2) of the Internal Revenue Code of 1954, as amended.

(i) Each Rack on the date of delivery thereof will have an estimated useful life of at least two and one-quarter years beyond the expiration of any renewal term permitted under this Lease Agreement for such unit of Equipment and an estimated fair market value at the end of any renewal term permitted under this Lease Agreement of at least 20% of Lessor's Cost of Racks for such Rack, without including in such fair market value

an or decrease for inflation or deflation
du m of the lease for such unit of Equipment.

Equipment will not be used in connection
with performance of any prime government contract,
or subsequent or purchase order thereunder, with
respect to which the provisions of the Renegotiation
Act of 1951, as amended, are applicable.

9. OWNERSHIP, LOCATION, USE OF AND LIENS ON EQUIPMENT

(a) The Equipment shall be the exclusive property of Lessor, and Lessee shall have no rights therein except the right to use it so long as Lessee is not in default hereunder. It is the intention of the parties hereto that the Equipment shall be and remain personal property of Lessor and Lessee shall not permit the Equipment to become or remain a fixture to any real estate or an accession to any personalty not leased hereunder. Lessee shall not, without Lessor's prior written consent, remove any unit of Equipment from the railroad car specified for such unit in the Certificate of Acceptance for such unit.

(b) Lessee agrees that the Equipment will be used solely in the conduct of its business, with due care to prevent injury thereto or to any person or property and in conformity with all applicable laws, ordinances, rules, regulations and other requirements of any insurer or governmental body (including, without limitation, any requirements regarding licensing or registration, or evidencing title to the Equipment, all of which shall be done in such manner as shall have previously been approved in writing by Lessor). Lessor, or any duly authorized representative thereof, may during reasonable business hours from time to time inspect the Equipment and Lessee's records with respect thereto wherever the same may be located.

(c) Lessee agrees to comply in all respects with all laws of the jurisdictions in which the units may be operated, with the interchange rules of the Association of American Railroads, if applicable, and with all lawful rules of the Department of Transportation and the Interstate Commerce Commission and any other

legislative, executive, administrative or judicial body exercising any power or jurisdiction over the units. In the event that such laws or rules require the alteration of the units or in case any equipment or appliance on any such unit shall be required to be changed or replaced, or in case any additional or other equipment or appliance is required to be installed on such unit in order to comply with such laws, regulations, requirements and rules, Lessee agrees to make such alterations, changes, additions and replacements at its own expense; and Lessee agrees at its own expense to use, maintain and operate such unit in full compliance with such laws, regulations, requirements and rules so long as the units are subject to this Lease Agreement; provided, however, that Lessee may, in good faith, contest the validity or application of any such law, regulation, requirement or rule in any reasonable manner which does not in the opinion of Lessor adversely affect the property or rights of the Lessor hereunder; and further provided, however, that any additions to the units which can be removed without material damage to the units shall become the property of Lessee on the termination of this Lease Agreement.

(d) Lessee shall not permit any lien, charge, encumbrance, security interest, or other similar interest to arise or remain on any Equipment other than (i) liens placed by Lessor or liens of persons claiming against Lessor but not Lessee, which arise out of obligations which Lessee is not required by this Lease Agreement to pay or discharge, (ii) liens of current taxes not delinquent, and (iii) inchoate materialmen's or mechanics liens arising in the ordinary course of business and not delinquent.

(e) Lessee shall place and maintain on each side of each Rack a notice (in letters not less than one inch in height) conspicuously disclosing Lessor's ownership thereof as follows:

"CONTINENTAL ILLINOIS LEASING CORPORATION, OWNER-LESSOR"

or other appropriate words designated by Lessor, with appropriate changes thereof and additions thereto as

from time to time may be required by law in order to protect the title of Lessor to such unit and the rights of Lessor under this Lease Agreement. Lessee will not place any such unit in operation or exercise any control or dominion over the same until such names and words shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. Lessee shall maintain on each unit of Equipment the serial and other identifying numbers, if any, set forth on the applicable Certificate of Acceptance. Lessee will not change the identifying number of any Rack except in accordance with a statement of new identifying numbers to be substituted therefor, which statement previously shall have been filed with Lessor by Lessee and filed, recorded or deposited by Lessee in all public offices where this Lease Agreement shall have been filed, recorded or deposited. Except as above provided, Lessee, so long as this Lease Agreement shall remain in effect, will not allow the name of any person, association or corporation to be placed on the units as a designation that might be interpreted as a claim of ownership; provided, however, that Lessee may cause the units to be lettered with the names or initials or other insignia customarily used by Lessee or its affiliates on railroad equipment used by them of the same or a similar type for convenience of identification of their right to use the units as permitted under this Lease Agreement.

(f) Lessee shall, prior to the delivery of units of Equipment hereunder, obtain such waivers, releases, or other documents, in form and substance satisfactory to Lessor, as may be reasonably required to insure that such Equipment (i) will not be subject to any lien (including, without limitation, liens of the owners of the railroad cars upon which such Equipment will be placed) except liens placed by Lessor or liens of persons claiming against Lessor and not Lessee, which arise out of obligations which Lessor is not required by this Lease Agreement to pay or discharge, (ii) will not become a fixture to any real estate or (iii) will not become an accession to any personalty (including, without limitation, an accession to the railroad cars upon which such Equipment will be placed).

10. MAINTENANCE OF EQUIPMENT

Lessee shall at all times keep the Equipment in good repair and efficient condition and working order, reasonable wear and tear excepted. Lessee shall supply all parts, service, and other items required in the operation and maintenance of the Equipment. Lessee shall not, without the written consent of Lessor, make any additions to the Equipment. All parts, replacements, substitutions and additions to or for any Equipment shall immediately become Equipment and the property of Lessor; provided, however, that any additions to the units which can be removed without material damage to the units shall become the property of Lessee on the termination of this Lease Agreement. Lessee assumes all risk of, and Lessee's obligations under this Lease Agreement shall continue unmodified despite, any loss, theft, destruction, damage, condemnation, requisition or taking by eminent domain or other interruption or termination of use of any Equipment regardless of the cause thereof.

11. EVENT OF LOSS

(a) Upon the happening of any loss, theft, destruction, damage, condemnation, requisition, taking by eminent domain or other interruption or termination of use of any unit of Equipment regardless of the cause thereof (herein collectively called an "Event of Loss"), Lessee shall promptly make all repairs and replacements necessary to restore or repair such unit of Equipment so that the Equipment thereafter subject to lease hereunder is substantially equivalent to, and of a value not less than, the Equipment subject to lease hereunder prior to such Event of Loss; provided, however, that Lessee may instead on the next quarterly rent payment date following such Event of Loss, furnish Lessor with an affidavit of an officer of Lessee setting forth the fact of such Event of Loss and pay to Lessor the Stipulated Loss Value (as defined in Exhibit C hereto, determined as of such next subsequent rent payment date) of such unit of Equipment. Upon payment of (i) such Stipulated Loss Value, (ii) any rent accrued and unpaid on such unit of Equipment to and including the rent payment date immediately preceding such next rent payment date and (iii) any other amounts owing by Lessee hereunder, whether as additional rent, indemnifi-

cation or otherwise, Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such unit of Equipment it may have. Upon such transfer the lease of such unit of Equipment hereunder shall end.

(b) When Lessee has fulfilled the requirements of paragraph (a) regarding an Event of Loss, Lessor shall (if no event of default, or event which might mature into an event of default, has occurred and is continuing) reimburse Lessee for its costs thus incurred to the extent of any proceeds received by Lessor because of such Event of Loss either under any policies of insurance provided for in Section 12 or as satisfaction of any claim (other than one to which an insurer is or may be subrogated) by Lessor against any person or persons liable in respect of such Event of Loss, after subtracting in each instance all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor and not otherwise reimbursed by Lessee in respect thereto.

12. INSURANCE

(a) Lessee will cause to be carried and maintained at all times during the term of this Lease Agreement physical damage and liability insurance covering the Equipment in the name of Lessor and Lessee in such amounts and in such form as is commonly maintained on comparable equipment by companies similarly situated. Lessee currently maintains the insurance coverage described in Exhibit D. Such insurance policy or policies shall provide that all losses thereunder will be adjusted with Lessee or Lessor and will be payable to Lessor and Lessee as their respective interests shall appear.

(b) The policies of insurance required under this Section 12 shall be valid and enforceable policies issued by insurers of recognized responsibility comparable to Lessee's present insurers. Upon the execution of each Certificate of Acceptance, and thereafter not less than 10 days prior to the expiration dates of any expiring policies theretofore furnished under this Section 12, certificates of insurance and satisfactory

evidence of the payment of premiums thereon shall be delivered by Lessee to Lessor. Such policies may be blanket policies covering other equipment not covered by this Lease Agreement, provided that any blanket policy shall in an accompanying certificate of insurance or rider specifically designate the units of Equipment described in such Certificate of Acceptance as being included therein and covered thereby to the full extent of the amounts herein required and shall name Lessor as an additional insured party thereunder with respect to such units of Equipment. All such policies shall contain an agreement by the insurers that such policies shall not be cancelled without at least 10 days' prior written notice to Lessor and that the insurer will give notice to Lessor in the event of nonpayment of premium by Lessee when due.

13. TAXES

Lessee agrees to pay and discharge (and does hereby agree to indemnify and hold Lessor harmless from and against) all sales, use, personal property, leasing, leasing use, stamp or other taxes, levies, imposts, duties, charges or withholdings of any nature (together with any penalties, fines or interest thereon) imposed against Lessor, Lessee or the Equipment by any Federal, State or local government or taxing authority upon or with respect to the Equipment or upon the purchase, rehabilitation, ownership, delivery, lease, possession, use, operation, return, sale or other disposition thereof hereunder or in connection herewith, or upon the rentals, receipts, or earnings arising therefrom, or upon or with respect to this Lease Agreement (excluding, however, taxes on, or measured by, the net income of Lessor imposed by the United States or the jurisdiction in which the principal office of Lessor is located) unless, and to the extent only that, any such tax, levy, impost, duty, charge or withholding is being contested by Lessee in good faith and by appropriate proceedings. Lessee agrees to file, on behalf of Lessor, all required tax returns and reports concerning the Equipment with all appropriate governmental agencies and to furnish Lessor a copy of each such return or report, including evidence of payment, within 30 days after the due date of such filing; provided, however, that in the event Lessee is not permitted to file such returns and reports on behalf of Lessor, then Lessee agrees

to prepare and forward all such returns and reports to Lessor in a timely manner with appropriate instructions to Lessor as to their filing. To the extent that any taxes hereinabove referred to in this Section 13 are included in Lessor's Cost of Racks for any unit, Lessee shall not be obligated under this Section 13 for indemnification with respect to such taxes.

14. INDEMNIFICATION AND EXPENSES

(a) Lessee agrees to and does hereby indemnify and hold Lessor and its agents, employees, stockholders, officers and directors, harmless from and against any and all expense, liability or loss whatsoever, including (without limitation) reasonable legal fees and expenses, relating to or in any way arising out of the Purchase Agreement, the Assignment or this Lease Agreement, or the purchase, ownership, delivery, lease, possession, rental, use, operation, return, sale or disposition of the Equipment hereunder or in connection herewith (including without limitation, expense, liability or loss relating to or in any way arising out of injury to persons or property, patent or invention rights or strict liability in tort). Lessor shall give Lessee and Lessee shall give Lessor notice of any event or condition which requires indemnification by Lessee hereunder, or any allegation of such event or condition, promptly upon obtaining knowledge thereof, and, to the extent that Lessee makes or provides to the satisfaction of Lessor for payment under the indemnity provisions hereof, Lessee shall be subrogated to Lessor's rights with respect to such event or condition and shall have the right to determine the settlement of claims thereon, it being agreed that except to the foregoing extent, Lessor shall have the right to determine such settlement. Lessee shall pay all amounts due hereunder promptly on notice thereof from Lessor.

(b) If as to any Rack Lessor shall not be entitled under any circumstances (including any Change in Tax Law, as hereinafter defined) other than as set forth in paragraph (d) below to any portion or all of the maximum 10% investment credit presently allowable under Section 38(a) of the Internal Revenue Code of 1954, as amended (the "Code"), for property with a useful life of seven

or more years on not less than Lessor's Cost of Racks for such unit of Equipment, or if at any time Lessor shall lose, have recaptured or be deemed not to be entitled to any portion or all of said maximum investment credit on Lessor's Cost of Racks for each such unit of Equipment under any circumstances (including any Change in Tax Law) other than as set forth in such paragraph (d), then, Lessee shall pay Lessor upon demand, the sum of (1) the amount of said maximum investment credit which Lessor shall have so lost, had recaptured or failed to receive; (2) the amount of any interest (net of any actual decrease in Federal income tax caused by any allowable deduction of such interest from taxable income) or penalties, including any additions to tax because of underpayment of estimated tax which may be assessed against Lessor in connection therewith; and (3) the amount of any taxes required to be paid by Lessor in respect of the receipt of amounts referred to in clauses (1) and (2) above and the receipt of amounts pursuant to this clause (3). If, at any subsequent time, Lessor shall be allowed and receive a refund with respect to any portion or all of said maximum investment credit which it lost, had recaptured or failed to receive at any time previous and for which payment had been made to Lessor by Lessee pursuant to this paragraph (b), then, promptly after receipt of said refund, Lessor shall pay Lessee the sum of (i) all amounts with respect to such allowance paid to Lessor by the Federal government (including refunds of investment credit, interest, and penalties and any additional interest paid to Lessor by the Federal government on such refunds) reduced by all taxes required to be paid by Lessor in respect of the receipt of such amounts from the Federal government, and (ii) the amount of any taxes saved by Lessor in respect of its payment to Lessee of amounts referred to in clause (i) above and its payment to Lessee of amounts pursuant to this clause (ii). Lessor agrees to use its best efforts to take the maximum investment credit to which it shall reasonably deem itself entitled with respect to the Racks on its Federal income tax return for the earliest possible year for which it can be taken.

(c) If Lessor in computing its Federal taxable income or its taxable income for purpose of computing

its liability to any state or local taxing authority in which the principal office of Lessor is located, for any part of the lease term of any unit of Equipment shall under any circumstances (including any Change in Tax Law) other than as set forth in paragraph (d) below lose the benefit of or the right to claim or there shall be disallowed or recaptured all or any portion of depreciation deductions for Federal, state or local income tax purposes for such unit of Equipment based on depreciation of Lessor's Cost of Racks for such unit over a depreciable life of 7 years to a net salvage value of 10% using any of the methods described in clause (y) of Section 27(a) hereof, which Lessor, in its complete discretion, may select, then Lessee shall pay Lessor on each rent payment date during the remaining lease term of such unit, as additional rent hereunder, an amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof, shall be sufficient to yield to Lessor the same rate of return and after tax cash flow as of each rent payment date as would have been realized by Lessor in respect of this Lease Agreement if such loss, disallowance, or recapture of depreciation deductions or the right to claim the same had not occurred, which amount shall, if subsequent circumstances require, be thereafter adjusted (or further appropriate adjustments shall be made in respect thereof, including any adjustment or lump sum payment necessary to reflect the amount of any refund of taxes, interest or penalties received by Lessor or the receipt by Lessor of interest with respect to such refund) when and to the extent necessary so that Lessor's rate of return and after tax cash flow as of each rent payment date shall be as aforesaid. In addition, Lessee shall also pay Lessor on demand, as additional rent hereunder, an amount which, after deduction of all taxes required to be paid by Lessor in respect of the receipt thereof, shall be equal to the amount of any interest (net of any actual decrease in Federal, state or local income tax caused by any allowable deduction of such interest from taxable income) or penalties, including any additions to tax because of underpayment of estimated tax, which may be assessed against Lessor in connection with such loss, disallowance, or recapture of depreciation deductions or the right to claim the same.

(d) Lessee shall not be required to pay Lessor the amounts provided for in paragraphs (b) and (c) above if the loss or disallowance of investment credit or depreciation deductions, as the case may be, or the right to claim the same, shall result only from the occurrence of any of the following events:

(i) Lessor shall fail to claim such investment credit or depreciation deductions in its income tax returns for the appropriate years or shall fail to follow the proper procedures in claiming such investment credit or depreciation deductions and such failure to claim or follow such procedures, as the case may be, shall preclude Lessor from claiming such investment credit or depreciation deductions;

(ii) Lessor shall not have sufficient income to benefit from such investment credit or depreciation deductions;

(iii) Lessor shall voluntarily transfer legal title to the Equipment (other than a transfer pursuant to Section 11(a) hereof) or Lessor shall dispose of or reduce its interest in such Equipment, if such transfer, disposal or reduction (A) shall be the cause of such loss, (B) shall occur at any time when no event of default has occurred and is continuing and (C) shall not be pursuant to the written consent of Lessee;

(iv) Lessor shall fail to take timely action in contesting a claim made by the Internal Revenue Service or any State or local taxing authority with respect to the disallowance of the investment credit or depreciation deductions pursuant to paragraph (e) below and the failure to take such action in a timely manner shall preclude all rights to contest such claim, unless Lessee shall agree to such failure;

(v) Any other voluntary act or omission by Lessor not contemplated or permitted by the Purchase Agreement, the Assignment or this Lease Agreement which, under the Code as in effect on the date

hereof or as modified by any Change In Tax Law, would directly result in the loss or disallowance of such investment credit or depreciation deductions; or

(vi) Lessee shall have paid Lessor the Stipulated Loss Value of such unit of Equipment pursuant to Section 11(a) hereof.

(e) In the event a claim shall be made by the Internal Revenue Service or any state or local taxing authority which, if successful, would result in a loss of such investment credit or depreciation deductions under circumstances which would require Lessee to indemnify Lessor for such loss, Lessor hereby agrees to notify Lessee promptly of such claim, to not make payment of the tax claimed for at least 30 days after giving such notice, to give to Lessee any relevant information requested by it relating to such claim which may be particularly within the knowledge of Lessor and, if Lessee shall request within 30 days after the giving of such notice that such claim be contested, to take such action in connection with contesting such claim, including appropriate appeals from lower court decisions, as Lessee shall reasonably request in writing from time to time, but only if Lessee shall, contemporaneously with such initial request, have (i) made provision for Lessor's indemnification in a manner satisfactory to Lessor for any liability or loss which Lessor may from time to time incur as the result of contesting such claim and reimbursement for all costs and expenses, including legal fees and disbursements, which Lessor may incur in connection with the contesting of such claim and (ii) furnished Lessor with an opinion of independent tax counsel satisfactory to Lessor to the effect that a meritorious defense exists to such claim; provided, however, that at any time after having received such request from Lessee, Lessor at its sole option, may forego any and all administrative appeals, proceedings, hearings and conferences with the Internal Revenue Service or any State or local taxing authority, as the case may be, in respect of such claim and may, at its sole option, either pay the tax claimed and sue for a refund in the appropriate United States District Court, the United States Court of Claims, or appropriate State court, as the case may be, as Lessor shall elect,

or contest such claim in the United States Tax Court, or appropriate State court, as the case may be, considering, however, in good faith such request as Lessee shall make concerning the most appropriate forum in which to proceed.

(f) References in Section 13 and in paragraphs (b) through (e) of this Section 14 and in paragraph (a) of Section 27 to Lessor shall be deemed to mean any affiliated group of which Lessor is a part which files a consolidated return for Federal income tax purposes, provided that only Lessor shall be obligated with respect to the covenants and duties therein expressed to be imposed on Lessor.

(g) All of the indemnities and agreements of Lessee and Lessor contained in Section 13 and in this Section 14 shall survive and continue in full force and effect notwithstanding termination of this Lease Agreement or of the lease of any or all units of Equipment hereunder.

(h) Any payments required to be made by Lessee pursuant to this Section 14 as a result of a Change in Tax Law shall be reduced by all tax savings which have theretofore been or in the current taxable year will be realized by Lessor on account of any Change in Tax Law resulting in Federal income tax consequences to Lessor more favorable than the tax benefits presently existing on the date hereof.

(i) Any amount payable in accordance with this Section 14 shall be payable within 10 business days of Lessee's receipt of Lessor's invoice therefor. Each such invoice shall be detailed to reflect the calculation of amounts due hereunder and shall be accompanied by a statement from a senior officer of Lessor to the effect that he has examined Lessor's determination of the amount due and that, in his opinion, such amount due has been properly calculated pursuant to this Section 14.

(j) In the event that (i) Lessee shall be obligated to make payments to Lessor pursuant to paragraphs (b) and (c) of this Section 14 and (ii) the aggregate of

(x) such payments on the date of determination thereof and (y) rent required to be paid during the remainder of the initial lease term hereunder following the aforementioned date of determination, discounted to such date at the rate per annum equal to the Prime Rate of Bank then in effect, shall exceed the Stipulated Loss Value applicable on the date of such determination (if a quarterly rent installment date) or on the next succeeding quarterly rent installment date, Lessee may give written notice to Lessor of its intention to purchase the Equipment pursuant to this paragraph (j), such notice to include reasonably detailed calculations as to such indemnity payments, rent and Stipulated Loss Value. Lessee shall be obligated to purchase and Lessor shall be obligated to sell the Equipment within 30 days of the quarterly rent installment date next succeeding the date on which such notice was given at a purchase price equal to the greater of: (i) Stipulated Loss Value as at such quarterly rent installment date or (ii) the fair market value of the Equipment as at such quarterly installment date, all subject to and in accordance with the terms of paragraph (k) below. If Lessee and Lessor are unable to agree upon the fair market value of the Equipment, such fair market value shall be determined by an independent appraiser selected by mutual agreement of Lessor and Lessee. The fee of such appraiser shall be paid by Lessee. Upon receipt of such purchase price, Lessor, at the expense of Lessee, will convey the Equipment to Lessee and this Lease Agreement shall terminate, all subject to and in accordance with the terms of paragraph (k) below.

(k) Notwithstanding paragraph (j) above, this Lease Agreement shall not terminate until Lessee shall have discharged, or made provisions satisfactory to Lessor for the discharge of, all liabilities and obligations of Lessee accruing under this Lease Agreement up to the time of such termination (including, without limitation, payment of all rent due on the termination date and payment of all amounts due for which reimbursement is not included in the Stipulated Loss Value referred to in paragraph (j) above). Any conveyance of the Equipment by Lessor upon purchase by Lessee pursuant to paragraph (j) above shall be without representation or warranty of any kind whatsoever.

15. RETURN OF EQUIPMENT

Upon final termination of the lease term hereunder of any unit of Equipment (other than a termination under Section 11(a)), Lessee shall forthwith remove, assemble and deliver possession of the units to Lessor in the same condition as when received, ordinary wear and tear excepted. For the purpose of delivering possession of any unit or units to Lessor as above required, Lessee shall at its own cost, expense and risk remove and transport such units to Lessor at such point in Cook County, Illinois, or other location on Lessee's lines as Lessor shall specify. The removal, assembling, delivery, and transporting of the units as hereinbefore provided shall be at the expense and risk of Lessee and are of the essence of this Lease Agreement, and upon application to any court of equity having jurisdiction in the premises Lessor shall be entitled to a decree against Lessee requiring specific performance of the covenants of Lessee so to remove, assemble, deliver and transport the units. During the period of removal or assembly and until delivery to Lessor is accomplished, Lessee shall maintain insurance on the units of Equipment in accordance with Section 12 hereof and shall permit Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such unit, to inspect the same; provided, however, that Lessee shall not be liable, except in the case of negligence of Lessee or of its employees or agents, for any injury to, or the death of, any person exercising, either on behalf of Lessor or any prospective purchaser, the rights of inspection granted under this sentence.

Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, Lessee hereby irrevocably appoints Lessor as the agent and attorney-in-fact of Lessee, with full power and authority, at any time while Lessee is obligated to deliver possession of any unit to Lessor, to demand and take possession of such unit in the name and on behalf of Lessee from whomsoever shall be in possession of such unit at the time.

16. FINANCIAL STATEMENTS

Lessee shall furnish or cause to be furnished to Lessor, (i) within 120 days after each fiscal year of

Lessee, a copy of the audited annual report of Lessee and any consolidated subsidiaries, prepared on a consolidated basis and in conformity with generally accepted accounting principles (subject to conforming railroad qualifications) applied on a basis consistent with that of the preceding year, and signed by nationally recognized independent certified public accountants satisfactory to Lessor, (ii) within 120 days after each fiscal year of Lessee, a copy of the ICC Rail Form R1 of Lessee for such year, prepared on an unconsolidated basis and in conformity with the Uniform System of Accounts for Railroad Companies prescribed by the ICC applied on a basis consistent with that of the preceding fiscal year, and signed by a proper accounting officer of the Lessee, (iii) within 60 days after each quarter (except the last quarter) of each fiscal year of Lessee, a copy of its unaudited unconsolidated financial statement, prepared in conformity with the Uniform System of Accounts for Railroad Companies prescribed by the ICC and consisting of at least a balance sheet as at the close of such quarter and a profit and loss statement and analysis of surplus for such quarter and for the period from the beginning of such fiscal year to the close of such quarter, and signed by a proper accounting officer of Lessee, (iv) with the annual audit report each year, a certificate of a responsible officer of Lessee to the effect that, except as otherwise specified therein, (x) all units of Equipment are in existence and in good and efficient condition and have been marked as required by paragraph (e) of Section 9 hereof and, (y) no event of default, or event which might mature into an event of default, has occurred and is continuing under this Lease Agreement, and (v) from time to time, such other information as Lessor may reasonably request.

17. EVENTS OF DEFAULT

(a) The following shall be events of default hereunder:

(i) Default, and continuance thereof for 15 days, in the payment of any rent or other amount due hereunder;

(ii) Any obligation of Lessee or any material subsidiary for borrowed money or a material payment of rent (other than any such obligation of

any such subsidiary to Lessee or any other subsidiary) becomes or is declared to be due and payable prior to its express maturity by reason of default by Lessee or any such subsidiary in the performance or observation of any obligation or condition, provided, however, that claimed defaults which are contested in good faith by Lessee and for which Lessee has established and is maintaining in accordance with generally accepted accounting principles an adequate reserve shall not constitute an event of default hereunder;

(iii) Default in the performance of any of Lessee's agreements herein set forth (and not constituting an event of default under either of the preceding clauses of this paragraph (a)) and continuance of such default for 30 days after notice thereof from Lessor to Lessee;

(iv) Any representation or warranty made by Lessee in this Lease Agreement is untrue in any material respect, or any statement, report, schedule, notice or other writing furnished by Lessee to Lessor in connection herewith is untrue in any material respect on the date as of which the facts set forth are stated or certified; or

(v) Lessee or any material subsidiary becomes insolvent or admits in writing its inability to pay its debts as they mature, or applies for, consents to or acquiesces in the appointment of a trustee or a receiver for Lessee or any such subsidiary or any property of either thereof; or, in the absence of such application, consent or acquiescence, a trustee or receiver is appointed for Lessee or any such subsidiary, or for a substantial part of the property of any thereof, and is not discharged within 60 days; or any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding is instituted by or against Lessee or any such subsidiary, and, if instituted against Lessee or any such subsidiary is consented to or acquiesced in by Lessee or any such subsidiary or remains for 60 days undismitted.

When used herein, unless the context otherwise requires, the term "event of default" shall mean any event described in the foregoing clauses (i) through (v) and the term "event which might mature into an event of default" shall mean any event which with the lapse of time, or with notice to Lessee and lapse of time, would constitute an event of default. Lessee shall give Lessor prompt notice of any event of default or of any event which might mature into an event of default.

(b) Upon the happening of an event of default, Lessor shall (except to the extent otherwise required by law) be entitled to:

(1) proceed by appropriate court action or actions to enforce performance by Lessee of the applicable covenants and terms of this Lease Agreement or to recover damages for the breach thereof;

(2) repossess any or all units of Equipment without prejudice to any remedy or claim hereinafter referred to (and Lessee hereby waives any claim for damages resulting from the exercise by Lessor of its right to enter upon Lessee's premises and remove the units);

(3) elect to sell any or all units of Equipment, after giving 30 days' notice to Lessee, at one or more public or private sales and recover from Lessee as liquidated damages for Lessee's default hereunder an amount equal to the amount, if any, by which (A) the sum of (i) the aggregate Stipulated Loss Value of such units of Equipment on the date such notice is given, (ii) all rent owing hereunder to and including the rent payment date immediately preceding the date such notice is given, (iii) all costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing, restoring and selling such units of Equipment, (iv) all other amounts owing by Lessee hereunder, whether as additional rent, indemnification or otherwise, and (v) all costs and expenses, including (without limitation) reasonable legal

fees and expenses, incurred by Lessor as a result of Lessee's default hereunder, exceeds (B) the amount received by Lessor upon such public or private sales of such units of Equipment;

(4) upon notice to Lessee receive prompt payment from Lessee of an amount equal to the aggregate Stipulated Loss Value on the date such notice is given of all units of Equipment which have not been sold by Lessor pursuant to clause (3) above plus, to the extent not otherwise recovered from Lessee pursuant to said clause (3) above, (i) any rent and other amounts owing hereunder to and including the rent payment date immediately preceding the date such notice is given, (ii) all costs and expenses incurred in searching for, taking, removing, keeping, storing, repairing and restoring such units of Equipment, and (iii) all other amounts owing by Lessee hereunder, whether as additional rent, indemnification or otherwise, and (iv) all costs and expenses, including (without limitation) reasonable legal fees and expenses, incurred by Lessor as a result of Lessee's default hereunder; provided that upon receipt of payment in full of such amount, Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such units of Equipment it may have;

(5) require Lessee at its own cost, expense and risk to remove, assemble, deliver and transport the units to Lessor without terminating any of Lessee's other obligations under this Lease Agreement;

(6) by notice to Lessee, declare this Lease Agreement terminated without prejudice to Lessor's rights in respect of obligations then accrued and remaining unsatisfied; or

(7) avail itself of any other remedy or remedies provided for by any statute or otherwise available at law, in equity, or in bankruptcy or insolvency proceedings.

The remedies herein set forth or referred to shall be cumulative. The references to additional rent in clauses (3) and (4) of this paragraph (b) shall each include, without limitation, interest at the applicable rate specified, in the first paragraph of Section 4, to the date of receipt by Lessor of the amount payable under said clause, on installments of rent owing hereunder to and including the rent payment date immediately preceding the date on which notice is given under said clause, from the respective due dates of such installments, and interest on all other costs, expenses and losses for which Lessor is entitled to payment under said clause from the respective dates incurred by Lessor.

18. SUBLEASE, ASSIGNMENT, MERGER, ETC. BY LESSEE

(a) So long as Lessee shall not be in default under this Lease Agreement, Lessee shall be entitled to the possession and use of the units of Equipment in accordance with the terms of this Lease Agreement, but, without the prior written consent of Lessor, Lessee shall not assign, transfer or sublet its leasehold interest under this Lease Agreement in the units or any of them. Lessee shall not, without the prior written consent of Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the units, except to the extent permitted by the provisions of paragraph (b) below.

(b) So long as Lessee shall not be in default under this Lease Agreement, Lessee shall be entitled to the possession of the units and to the use thereof upon its lines of railroad or upon the lines of any affiliate or upon lines of railroad over which Lessee has trackage or other operating rights or over which railroad equipment of Lessee is regularly operated pursuant to contract, and also to permit the use of the units upon other railroads in the usual interchange of traffic, if customary at the time, but only upon and subject to all the terms and conditions of this Lease Agreement. Lessee may receive and retain compensation for such use from other railroads so using any of the Racks. Lessee agrees that during the term of this Lease the Racks will not be used outside of the United

States of America and Canada. Lessee will, however, use its best efforts to prevent other than incidental use of any Rack in Canada. No assignment, sublease or interchange entered into by Lessee hereunder shall relieve Lessee of any liability or obligations hereunder which shall be and remain those of a principal and not a surety.

(c) Nothing in this Section 18 shall be deemed to restrict the right of Lessee to assign or transfer its leasehold interest under this Lease Agreement in the Equipment or possession of the Equipment to any corporation (which shall have expressly assumed in writing the due and punctual payment and performance of all obligations hereunder of Lessee) into or with which Lessee shall have become merged or consolidated or which shall have acquired the property of Lessee as an entirety or substantially as an entirety.

19. ASSIGNMENT BY LESSOR

Lessor and any direct or remote assignee of any right, title or interest of Lessor hereunder shall have the right at any time or from time to time to assign part or all of its right, title and interest in and to this Lease Agreement. Without limiting the foregoing, Lessor and any such assignee shall have the right at any time or from time to time to transfer, subject to Lessee's rights under this Lease Agreement, any unit or units of Equipment.

Lessor may obtain financing through a financial institution and secure such financial institution ("Secured Party") by granting a security interest or other lien on any or all of the Equipment, this Lease Agreement and sums due under this Lease Agreement. In such event (a) the security agreement or lien instrument will specifically provide that it is subject to Lessee's rights as herein provided; (b) such assignment of this Lease Agreement will not relieve Lessor from its obligations hereunder or be construed to be an assumption by Secured Party of such obligations (but Secured Party may perform, at its option, some or all of Lessor's obligations); (c) upon request by Secured Party, Lessee will make all payments of rental and other amounts due hereunder directly to Secured Party; (d) Lessee's obligations hereunder, including (without limitation) its obligation to pay rent and other amounts due hereunder, shall not be subject to any reduction, abatement, defense, set

off, counterclaim or recoupment for any reason whatsoever, which, however, shall not prevent Lessee from asserting any claim separately against Lessor; and (e) Lessee will not, after obtaining knowledge of any such assignment, consent to any modification of this Lease Agreement without the consent of Secured Party.

20. LESSOR'S RIGHT TO PERFORM

If Lessee fails to make any payments required by this Lease Agreement, or to perform any of its other agreements contained herein, Lessor may itself, but shall not be required to, make any such payments or perform any such obligations. The amount of any such payment and Lessor's expenses, including (without limitation) reasonable legal fees and expenses in connection therewith and with such performance, shall thereupon be and become payable by Lessee to Lessor upon demand as additional rent hereunder.

21. RECORDING; FURTHER ASSURANCES

Lessee will, at its expense, (i) cause this Lease Agreement and any assignment hereof to be filed and recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act, and (ii) file such Uniform Commercial Code financing statements in such counties and states as shall be required to perfect, to Lessor's satisfaction, Lessor's interest in the Equipment, all prior to the delivery and acceptance hereunder of any unit of Equipment. Lessee will, at its expense, cause (i) this Lease Agreement and any assignment hereof to be filed and recorded with the Registrar General of Canada and (ii) notice of deposit to be published in the Canada Gazette, all in accordance with Section 86 of the Railway Act of Canada. Lessee will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register, record and deposit (and will refile, re-register, re-record or redeposit whenever required) such Uniform Commercial Code continuation statements and any and all further instruments required by law or reasonably requested by Lessor for the purpose of proper protection, to Lessor's satisfaction, of Lessor's interest in the units, or for the purpose of carrying out the intention of this Lease Agreement or the assignment thereof by Lessor; and Lessee will promptly furnish to Lessor evidences of all such filing, registering, recording or depositing, and an opinion or opinions of counsel for Lessee with respect thereto satisfactory to Lessor.

22. PURCHASE OPTION

Lessee shall have an option (the "Purchase Option") to purchase for cash all of the Racks then under lease upon the last business day of or prior to the expiration of the lease term hereunder for such units of Equipment provided no event of default or event which might mature into an event of default has occurred and is then continuing hereunder. If Lessee desires to exercise the Purchase Option, it shall give to Lessor written notice of its election to purchase at least 90 days (and not more than 180 days) before the expiration of the lease term for such units of Equipment, stating Lessee's opinion as to the fair market value of the Equipment to be purchased, and upon expiration of such lease term, Lessee shall purchase such Equipment and shall pay to Lessor in immediately available funds the purchase price for such Equipment, determined as hereinafter provided. The purchase price of the Equipment shall be the fair market value thereof as of the date of purchase. If Lessee and Lessor are unable to agree upon the fair market value of the Equipment within 30 days after receipt by Lessor of such notice, such fair market value shall be determined by an independent appraiser selected by mutual agreement of Lessor and Lessee. The fee of such appraiser shall be paid by Lessee. Upon payment by Lessee to Lessor of the purchase price for the Equipment at such expiration, and upon payment by Lessee of all rent and any other amounts owing to Lessor under this Lease Agreement, Lessor shall transfer to Lessee, without any representation or warranty of any kind, express or implied, whatever title to such Equipment Lessor may have.

23. RENEWAL OPTION

Lessee shall have an option to renew for two (2) additional terms of one (1) year each the lease term of all of the Racks then under lease provided no event of default or event which might mature into an event of default has occurred and is then continuing immediately prior to the commencement of the renewal term then being elected by Lessee. If Lessee desires to exercise such option to renew, it shall give Lessor written notice of its election to renew at least 90 days (and not more than 180 days) prior to the commencement of the renewal term then being elected. Lessee shall pay rent to Lessor, quarterly in advance, for the Racks in installments each of which shall be in an amount

equal to 2.23878% of Lessor's Cost of Racks. All of the provisions of the Lease shall be applicable during any such renewal term except for the amount of each installment of rent which shall be as hereinabove provided. "Lease term" as used in the Lease shall, except where the context otherwise requires, be deemed to include any such renewal term.

24. DEFINITION OF SUBSIDIARY

When used herein, the term "subsidiary" shall mean a corporation of which Lessee or its other subsidiaries own, directly or indirectly, such number of outstanding shares as have the power (disregarding any voting power, solely by reason of the happening of any default, of shares of any class) to elect a majority of the board of directors.

25. CONDITIONS TO LESSOR'S OBLIGATIONS

Lessor shall not be obligated to make payment for any unit of Equipment hereunder unless at the date such payment is requested:

(a) All of Lessee's representations and warranties in Section 8 of this Lease Agreement shall be true and correct as though made as of such date;

(b) No litigation or governmental proceedings shall be threatened or pending against Lessee or any subsidiary which in Lessor's reasonable opinion may to a material extent adversely affect the financial condition or continued operation of Lessee and its subsidiaries on a consolidated basis;

(c) No event of default, or event which might mature into an event of default, shall have occurred or be continuing hereunder;

(d) Lessee shall have furnished to Lessor, in form and substance satisfactory to Lessor, the following on or prior to the date of the first requested payment hereunder:

(i) resolutions of the Board of Directors of Lessee, certified by its Secretary or an Assistant Secretary, authorizing the lease of such Equipment

hereunder and the execution, delivery and performance by Lessee of this Lease Agreement and all necessary or appropriate related documents;

(ii) a favorable opinion of counsel for Lessee, acceptable to Lessor, to the effect that:

(A) Lessee is a corporation duly organized and existing in good standing under the laws of the State of Wisconsin.

(B) Lessee is duly authorized to execute and deliver the Purchase Agreement, the Assignment and this Lease Agreement, and is duly authorized to lease Equipment hereunder and to perform its obligations hereunder and thereunder.

(C) The execution and delivery of the Purchase Agreement, the Assignment and this Lease Agreement by Lessee, and the performance by Lessee of its obligations hereunder and thereunder, do not and will not conflict with any provision of law or of the charter or by-laws of Lessee or of any indenture, mortgage, deed of trust or agreement or instrument binding upon Lessee or to which Lessee is a party. Lessee has in the negotiation, execution and delivery of the Purchase Agreement, the Assignment and this Lease Agreement complied in all respects with the competitive bidding regulations prescribed by the ICC in 49 CFR Part 1010 pursuant to 15 U.S.C. §20.

(D) The execution, delivery and performance of the Purchase Agreement, the Assignment and this Lease Agreement by Lessee and the consummation by Lessee of the transaction contemplated hereby and thereby does not require the consent, approval or authorization of, or notice to, any Federal or State governmental authority or public regulatory body, except the filing with the ICC of the statement required by 15 U.S.C. § 20 and 49 CFR § 1010.4.

(E) The Purchase Agreement, the Assignment and this Lease Agreement are the legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms (except as may be affected by bankruptcy, reorganization, insolvency and similar laws affecting the rights of creditors generally).

(F) There are to the knowledge of such counsel no pending or threatened actions or proceedings before any court or administrative agency which may, in the opinion of such counsel, to a material extent adversely affect the financial condition or continued operation of Lessee and its subsidiaries on a consolidated basis (except such actions or proceedings previously disclosed to Lessor pursuant to Section 8(g) hereof);

(G) This Lease Agreement has been duly filed and recorded with the ICC pursuant to Section 20c of the Interstate Commerce Act and all requisite filings of financing statements with respect to the Equipment under the Uniform Commercial Code in all appropriate jurisdictions have been made, such filings and recordings will protect Lessor's interests in and to the units of Equipment, and no further filing or recording (or giving of notice) with any other Federal, state or local government is necessary in order to protect the interests of Lessor in and to the units;

(H) Lessee has delivered all waivers, releases or other documents required to insure that the Equipment which has been or will be delivered to Lessee pursuant to the Lease Agreement is not and will not become (1) subject to any lien (including, without limitation the liens of the owners of the railroad cars upon which the Equipment has been or will be placed) except liens placed by Lessor or liens of persons claiming against Lessor and not Lessee, which arise out of obligations which Lessee is not required by this Lease Agreement to pay or discharge, (2) fixtures to any real estate, or (3) accessions

to any personalty (including, without limitation, accessions to the railroad cars upon which the Equipment has been or will be placed);

(iii) an appraisal certificate (required with the first payment requested hereunder for Racks) issued by Mr. Alex Kerr, an independent appraiser, to the effect that (A) the Racks on the date of delivery thereof to Lessor will have an estimated useful life of at least two and one-quarter years beyond the expiration of any renewal term of lease for the Racks under this Lease Agreement and an estimated fair market value at the end of any renewal term permitted hereunder of at least 20% of Lessor's Cost of Racks for such Racks, without including in such fair market value any increase or decrease for inflation or deflation during such term of the Lease, and (B) setting forth the manner in which such useful life and fair market value were determined; and

(e) Lessee shall have furnished to Lessor, in form and substance satisfactory to Lessor, the following on or prior to the date of each requested payment hereunder:

(i) an invoice addressed to Lessor covering the units of Equipment for which such payment is requested;

(ii) a Certificate of Acceptance signed by an officer of Lessee (as the authorized representative of Lessor hereunder) confirming delivery to, and acceptance by, Lessor of the units of Equipment for which such payment is requested;

(iii) a Certificate of Acceptance of Lessee covering the units of Equipment for which such payment is requested;

(iv) an opinion of Lessee's counsel, satisfactory to Lessor, that acceptance by Lessor of the units of Equipment for which such payment is requested and payment therefor by Lessor shall be effective to transfer to Lessor good title to such units of Equipment, free of all claims, liens or

encumbrances of any nature, except liens placed by Lessor or liens of persons claiming against Lessor and not Lessee, which arise out of obligations which Lessee is not required by this Lease Agreement to pay or discharge; and

(v) such other releases, financing statements, waivers and other documents as are required to insure that the Equipment will not be subject to any lien, charge, encumbrance, security interest or other similar interest except as permitted hereunder.

26. COMMENCEMENT DATE

On the Commencement Date Lessee shall furnish to Lessor in form and substance satisfactory to Lessor:

(a) A certificate of (i) the President or a Vice President and (ii) the Treasurer, Assistant Treasurer or the Comptroller of the Lessee, dated such Commencement Date, to the effect that:

(i) All of Lessee's representations and warranties in Section 8 of this Lease Agreement are true and correct as though made as of such date;

(ii) No litigation or governmental proceedings are threatened or pending against Lessee or any subsidiary which will, in the opinion of such officers, to a material extent adversely affect the financial condition or continued operation of Lessee and its subsidiaries on a consolidated basis (except such actions or proceedings previously disclosed to Lessor pursuant to Section 8(g) hereof);

(iii) No event of default, or event which might mature into an event of default, has occurred and is continuing hereunder;

(iv) Since the date of this Lease Agreement, there has been no material adverse change in the financial condition of the Lessee from that shown

by the financial statement referred to in subsection (e) of Section 8 hereof; and

(v) The Racks have been delivered to and accepted by Lessee for lease under this Lease Agreement, and the Lease Agreement is in full force and effect.

(b) Resolutions of the Board of Directors of Lessee, certified by its Secretary or an Assistant Secretary on such Commencement Date, authorizing the lease of such Equipment hereunder and the execution, delivery and performance by Lessee of this Lease Agreement and all necessary or appropriate related documents;

(c) An opinion of counsel for Lessee, acceptable to Lessor, dated such Commencement Date and addressed to Lessor, to the same effect as the opinion given to Lessor pursuant to Section 25(d)(ii) hereof on the first payment date hereunder; and

(d) Such other documents and evidence with respect to the Purchase Agreement, the Assignment and this Lease Agreement as Lessor may reasonably request in order to establish the consummation of the transactions contemplated by the Purchase Agreement, the Assignment and this Lease Agreement, the taking of all corporate proceedings in connection therewith and herewith and compliance with all conditions set forth in the Purchase Agreement, the Assignment and this Lease Agreement.

27. MISCELLANEOUS

(a) If on or prior to the requested date of payment of Lessor's Cost of Racks for such Racks, there shall have been (i) an amendment to the Code which changes the Federal income tax rate (in excess of the corporate surtax exemption) of Lessor from 48%, or (ii) any amendment, modification, addition or change made in or to the provisions of the Code, the Treasury Regulations under the Code (including the Treasury Regulations relating to the Asset Depreciation Range System of depreciation under Section 167(m) of the Code), published Internal Revenue Service Revenue Procedures, Revenue Rulings or other administrative interpretations,

or applicable judicial precedents (all of the foregoing amendments, modifications, additions or changes referred to in this clause (ii) being herein collectively referred to as a "Change in Tax Law"), which Change in Tax Law in the opinion of Lessor or in the opinion of its counsel might preclude Lessor from taking (x) investment credit on a Rack at the rate of 10% on Lessor's Cost of Racks or (y) depreciation deductions on Lessor's Cost of Racks over a depreciable life of 7 years to a net salvage value of 10% thereof, computed initially under the double declining balance method of depreciation provided in Section 167(b)(2) of the Code and then changing to the sum-of-the-years digits method of depreciation provided in Section 167(b)(3) of the Code, all without the consent of the Commissioner, with the annual allowance determined without reduction for salvage and with the first year's depreciation deduction being maximized by the election of either the "half year convention" or the "modified half year convention" pursuant to Treasury Regulation Section 1.167(a)-11(c)(2) (as in effect on the date of execution of this Lease Agreement), the rental rate specified in Section 4 hereof shall be increased in an amount sufficient to yield to Lessor the same annual rate of return and net after tax cash flow as of each rent payment date as would have been realized by Lessor in respect of this Lease if such Change in Tax Law had not occurred.

(b) Any provision in this Lease Agreement that Lessee shall take any action shall require Lessee to do so at its sole cost and expense.

(c) Any notice hereunder shall be in writing and, if mailed, shall be deemed to be given when sent by registered or certified mail, postage prepaid, and addressed: (i) if to Lessee, at its address shown below, (ii) if to Lessor, at 231 South LaSalle Street, Chicago, Illinois 60693 or (iii) to any party at such other address as it may, by written notice received by the other, designate as its address for purposes of notice hereunder.

(d) If this Lease Agreement or any provision hereof shall be deemed invalid, illegal, or unenforceable in any respect or in any jurisdiction, the valid-

ity, legality and enforceability of this Lease Agreement in other respects and other jurisdictions shall not be in any way impaired or affected thereby. Each of the parties hereto acknowledges that the other party shall not by act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Lease Agreement unless such waiver is in writing, and such writing shall be binding only to the extent therein provided and only upon the party signing it. A waiver on any one occasion shall not be construed as a waiver on any future occasion. Without limiting the foregoing, Lessor's rights and Lessee's duties shall in no way be affected by Lessor's inspection of, or failure to inspect, the Equipment or any of the documents referred to in this Lease Agreement or by Lessor's failure to inform Lessee of any failure to comply with any of Lessee's obligations under this Lease Agreement. Lessee hereby waives any right to assert that Lessor cannot enforce this Lease Agreement or that this Lease Agreement is invalid because of any failure of Lessor to qualify to do business in any jurisdiction. This Lease Agreement has been delivered for acceptance by Lessor in Chicago, Illinois, shall be governed by the laws of the State of Illinois, shall be binding upon Lessor and Lessee and their respective successors and assigns, and shall inure to the benefit of Lessor and Lessee and the successors and assigns of Lessor and Lessee.

(e) The section headings in this Lease Agreement are for convenience of reference only and shall not be considered to be a part of this Lease Agreement.

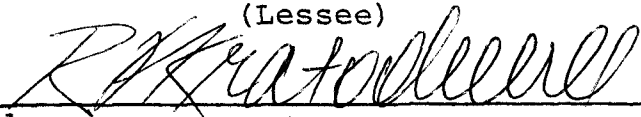
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed and their corporate seals to be affixed hereto all as of the date first above written.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY

(Lessee)

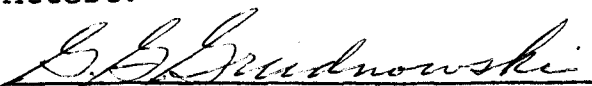
By

Title:


Vice President - Finance & Accounting

(CORPORATE SEAL)

Attest:


Assistant Secretary

Lessor's Address:

746 Union Station Building
516 West Jackson Boulevard
Chicago, Illinois 60606

Attn: Vice President-Finance and Accounting

CONTINENTAL ILLINOIS LEASING CORPORATION
(Lessor)

By Frank P. Schaeff
Title: 2nd V.P.

(CORPORATE SEAL)

ATTEST:

By J. M. Nechle
Title: Executive Vice President

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

On this 22nd day of December, 1976, before me personally appeared R. F. Kratochwill, to me personally known, who being by me duly sworn, says that he is ~~the Vice President & Accounting~~ of CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Jane E. Kot
Notary Public

(SEAL)

My Commission Expires: July 17, 1979

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

On this 22nd day of December, 1976, before me personally appeared S. P. Schaeffer, to me personally known, who being by me duly sworn, says that he is a U. P. of CONTINENTAL ILLINOIS LEASING CORPORATION, one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Adam E. Semurlo
Notary Public

ADAM E. SEMURLO
538 NO. GARFIELD
LOMBARD, ILL. 60148

(SEAL)

My Commission Expires: MY COMMISSION EXPIRES DECEMBER 10, 1979

EXHIBIT A

RACKS

100 fully enclosed tri-level automobile racks manufactured by Whitehead & Kales Company (said Company's models numbers AB 15153 and AB 15153-A), bearing or to bear said Company's serial numbers 56185 through 56384, inclusive, each of said racks to bear two serial numbers.

EXHIBIT B

CERTIFICATE OF ACCEPTANCE

Continental Illinois Leasing Corporation
231 South LaSalle Street
Chicago, Illinois 60693

Gentlemen:

1. The undersigned officer of Chicago, Milwaukee, St. Paul and Pacific Railroad Company (the "Railroad Company") is your authorized representative designated under the Lease Agreement dated as of December 21, 1976 between you and the Railroad Company. As such authorized representative, the undersigned hereby represents and certifies to you as follows:

(a) that the racks described in Annex A hereto have been duly delivered in good order by the Whitehead & Kales Company under the Purchase Agreement, have been duly inspected and accepted on the respective dates there shown by the undersigned as your authorized representative and conform in all respects to the requirements and specifications of the Purchase Agreement; and

(b) that each such rack was at its delivery properly marked on each side thereof with the legend provided in Section 9(e) of the Lease Agreement between you and the Railroad Company.

2. The undersigned, Chicago, Milwaukee, St. Paul and Pacific Railroad Company ("Lessee"), is the Lessee under the Lease Agreement hereinbefore described. As such Lessee, we hereby request you to pay the attached invoices for the purchase and delivery of the racks described in Annex A hereto. We hereby represent and certify to you as follows:

(a) that all of our representations and warranties set forth in Section 8 of the Lease Agreement are true and correct as of the date hereof as though made on this date;

(b) that the racks described on Annex A hereto have been delivered to us, as Lessee under the Lease Agreement, on the dates indicated and have been duly inspected and are hereby accepted by us for lease under the Lease Agreement;

(c) that each of the racks has been or will be placed on the railroad car shown opposite such rack on Annex A hereto; and

(d) that no event of default, or event which might mature into an event of default, has occurred and is continuing under the Lease Agreement.

3. This Certificate of Acceptance shall be and become a part of the Lease Agreement, and the racks described on Annex A hereto are hereby declared to be leased by us thereunder. The Lease Agreement was filed and recorded with the Interstate Commerce Commission on _____, 1976 at ____:____.M. with Recordation No. _____. All requisite filings of financing statements with respect to Equipment (as defined in the Lease Agreement) under the Uniform Commercial Code in all appropriate jurisdictions have been made.

Officer and authorized representative,
as aforesaid, and signing as to the
matters in paragraph 1 above

Dated: _____, 1976

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC
RAILROAD COMPANY, Lessee, and signing
as to the matters in paragraphs 2
and 3 above

By _____

Its _____

Dated: _____, 1976

Accepted:

CONTINENTAL ILLINOIS LEASING CORPORATION

By _____

Dated: _____, 1976

ANNEX A TO
CERTIFICATE OF ACCEPTANCE

DESCRIPTION OF RACKS

Total No.
of Items

Whitehead & Kales
Company
Serial Nos.

Trailer Train
Railroad Car
Upon Which Rack
Is To Be Placed

EXHIBIT C

STIPULATED LOSS VALUE FOR RACKS

"Stipulated Loss Value" of any Rack as of a particular date shall mean the product derived from multiplying (i) the percentage figure opposite the notation for the appropriate rental period set forth in the table appearing below by (ii) Lessor's Cost of Racks applicable to such Rack. Stipulated Loss Value does not include any amounts for which Lessor may be entitled to indemnification under Section 13 of the Lease Agreement, but does include amounts necessary to indemnify Lessor for loss of depreciation benefits and the investment tax credit. These percentage figures will be appropriately adjusted in the event that Lessee has previously made indemnity payments to Lessor under Section 14 of the Lease Agreement.

STIPULATED LOSS VALUE TABLE

		<u>§</u>
On or Before Rent Payment Date No.....	1	100.000000
Thereafter, But On or Before Rent		
Payment Date No.....	2	100.018672
Thereafter, But on or Before Rent		
Payment Date No.....	3	99.840541
Thereafter, But on or Before Rent		
Payment Date No.....	4	99.461088
Thereafter, But on or Before Rent		
Payment Date No.....	5	98.875690
Thereafter, But on or Before Rent		
Payment Date No.....	6	98.079619
Thereafter, But on or Before Rent		
Payment Date No.....	7	97.124259
Thereafter, But on or Before Rent		
Payment Date No.....	8	96.005954
Thereafter, But on or Before Rent		
Payment Date No.....	9	94.720962
Thereafter, But on or Before Rent		
Payment Date No.....	10	93.265456
Thereafter, But on or Before Rent		
Payment Date No.....	11	91.668817

Thereafter, But on or Before Rent		
Payment Date No.....	12	89.927802
Thereafter, But on or Before Rent		
Payment Date No.....	13	88.039099
Thereafter, But on or Before Rent		
Payment Date No.....	14	79.321974
Thereafter, But on or Before Rent		
Payment Date No.....	15	77.147228
Thereafter, But on or Before Rent		
Payment Date No.....	16	74.834422
Thereafter, But on or Before Rent		
Payment Date No.....	17	72.380384
Thereafter, But on or Before Rent		
Payment Date No.....	18	69.781874
Thereafter, But on or Before Rent		
Payment Date No.....	19	67.055157
Thereafter, But on or Before Rent		
Payment Date No.....	20	64.197291
Thereafter, But on or Before Rent		
Payment Date No.....	21	61.205267
Thereafter, But on or Before Rent		
Payment Date No.....	22	51.398638
Thereafter, But on or Before Rent		
Payment Date No.....	23	48.166978
Thereafter, But on or Before Rent		
Payment Date No.....	24	44.830571
Thereafter, But on or Before Rent		
Payment Date No.....	25	41.387013
Thereafter, But on or Before Rent		
Payment Date No.....	26	37.833844
Thereafter, But on or Before Rent		
Payment Date No.....	27	34.199100
Thereafter, But on or Before Rent		
Payment Date No.....	28	30.480908
Thereafter.....		20.000000

EXHIBIT D

INSURANCE COVERAGE

Fire Insurance on Railroad rolling stock in the amount of \$1,600,000 in excess of \$100,000 self insured each and every loss.

Excess Public Liability Insurance covering bodily injury and property damage in the amount of \$21,500,000 excess of \$2,000,000 Self Insurance each occurrence.